United Nations S/2003/331

Security Council

Distr.: General
18 March 2003

Original: English

Letter dated 3 March 2003 from the Chairman of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait addressed to the President of the Security Council

I have the honour to transmit herewith, for the attention of the members of the Council, the report of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait pursuant to paragraph 7 of Security Council resolution 1409 (2002) (see annex).

The report was approved by the Committee on 28 February 2003.

(*Signed*) Gunter **Pleuger**
Chairman
Security Council Committee established by resolution 661 (1990)
concerning the situation between Iraq and Kuwait

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Annex

Report of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait on the implementation of the arrangements in paragraphs 1, 2, 6, 8, 9 and 10 of resolution 986 (1995)

I. Introduction

1. The present report is submitted to the Security Council pursuant to paragraph 7 of resolution 1409 (2002), in which the Council requested the Committee established pursuant to resolution 661 (1990) to submit the report referred to in paragraph 6 of resolution 1360 (2001) regarding the implementation of the arrangements in paragraphs 1, 2, 6, 8, 9 and 10 of resolution 986 (1995). By paragraph 1 of resolution 1409 (2002), the Council decided that the provisions of resolution 986 (1995), except those contained in paragraphs 4, 11 and 12, and the provisions of paragraphs 2, 3 and 5 to 13 of resolution 1360 (2001), and subject to paragraph 15 of resolution 1284 (1999) and the other provisions of resolution 1409 (2002), would remain in force for a new period of 180 days beginning at 0001 hours, Eastern Daylight Time, on 30 May 2002.

2. The present report, the nineteenth of its kind, covers the Committee's major activities with regard to the implementation of the above-mentioned arrangements, in the light of the newly adopted revised goods review list and the procedures for its implementation, during phase XII of the oil-for-food programme, from 30 May to 25 November 2002.

II. Sale of petroleum and petroleum products

3. The oil overseers continued to advise the Committee on oil-pricing mechanisms, oil contract approvals and amendments, management of revenue objectives and other pertinent questions related to export and monitoring, under Security Council resolutions 986 (1995), 1175 (1998), 1242 (1999) and 1409 (2002). In this respect, the oil overseers have been involved in further discussions in the Committee on the issue of retroactive pricing and excessive premiums.

4. As at 31 October 2002, the oil overseers, on behalf of the Committee, had approved 192 oil contracts involving purchasers from 41 countries. The total quantity of oil approved for export under those contracts corresponds to 475 million barrels with an estimated value of €11.5 billion (US$ 11.4 billion at the rate of exchange on 31 October 2002). This contracted amount clearly exceeds the Iraqi export capacity during the phase, and the actual volume of oil lifted is expected to be substantially lower. The average rate of Iraqi crude oil exports from the start of the phase until 31 October 2002 was only 1.14 million barrels per day, representing about half of the assumed achievable and sustainable export level of 2.1 million barrels per day. About 150 million barrels worth between $3.5 and $4 billion in revenue have been lost during the current phase because of the low rate of exports.

5. As at 31 October 2002, 136 loadings (64 loadings from the load port Mina al-Bakr and 72 loadings from the Botas terminal in Ceyhan) totalling 176.7 million

barrels worth €4,293 million ($4,235 million, at the current rate of exchange on 31 October 2002) were completed.

6. All contracts submitted used the pricing mechanisms approved by the Committee, on the recommendation of the overseers. Letters of credit opened for each of the liftings were reviewed and confirmed by the overseers to be in accordance with the terms and conditions of the approved contracts. About 44 per cent of the volume lifted was from Ceyhan in Turkey.

7. The overseers have worked with the independent inspection agents (Saybolt Nederland BV) to ensure the effective monitoring of the relevant oil installations and the liftings. In this regard they have received full cooperation from the Iraqi authorities.

8. Pursuant to paragraph 2 of the procedures of the Committee (S/1996/636), 1,102 national oil purchasers have been nominated from 86 countries that are authorized to communicate directly with the overseers.

9. Pursuant to paragraph 14 of the Committee's procedures, the overseers have continued to report weekly on contracts regarding the sale of petroleum originating from Iraq, including the cumulative quantity and approximate value of petroleum authorized for export. As at 31 October 2002, 307 reports have been submitted to the Committee.

III. Humanitarian supplies to Iraq

10. As in previous phases, during phase XII the Committee continued to attach high priority to the work of processing contracts for the supply of humanitarian goods to Iraq.

11. As at 31 October 2002, the Secretariat had received 1,897 applications under phase XI for exports of humanitarian supplies to Iraq. Of that total, 86 applications were judged to be either non-compliant or inactive; 29 were still under review by the Office of the Iraq Programme; 205 were declared null and void; 1,418 were either approved by the Committee, notified by the Secretariat or approved by the Office of the Iraq Programme pursuant to paragraph 10 of the revised procedures attached to Security Council resolution 1409 (2002); 56 were under UNMOVIC/IAEA review; 95 were goods review list non-compliant[1] or inactive and 8 had the status "goods review list notice"[2] or "goods review list processing".[3] From the beginning of phase XII until 31 October 2002, the Secretariat had received 716 applications for the export of humanitarian supplies to Iraq. Of that total, 61 applications were still under review by the Office of the Iraq Programme; 4 were declared null and void; 37 were deemed to be either non-compliant or inactive; 502 were either approved by the Committee, notified by the Secretariat or approved by the Office of the Iraq Programme pursuant to paragraph 10 of the revised procedures; 92 were under UNMOVIC/IAEA review; 18 were goods review list non-compliant or inactive; and 2 had the status "goods review list notice" or "goods review list processing". During the reporting period, 183 applications with a total value of $576 million were released from hold by the Committee and 761 applications were approved under paragraph 18 of the revised procedures, under category B, with a total value of $1.1 billion. The remaining holds were categorized mainly as either goods review list non-compliant or returned holds. These figures correspond to all the applications

(all phases) released from hold during the reporting period. From the beginning of the programme to 31 October 2002, 10,063 applications have been approved, with a total value of $22.34 billion. A total of 117 humanitarian applications worth $146.6 million and previously on hold were returned to suppliers as category A holds under paragraph 18 of the revised procedures. A total of 739 humanitarian applications worth $2,827 million had the status goods review list non-compliant or inactive. As at 31 October 2002, there were no applications on hold.

12. The work of confirmation of goods arrival by the United Nations independent inspection agents (Cotecna) has continued according to the established procedures, at the four existing entry points to Iraq at Al-Walid, Trebil, Umm Qasr and Zakho. An additional entry point at Ar'ar on the border between Iraq and Saudi Arabia was established and became operational on 8 November 2002. As in previous phases, the Iraqi authorities have accorded the independent agents full cooperation in their work. Since the beginning of the programme and as at 31 October 2002, approximately 14,706 consignments of humanitarian supplies from previous phases for the 59 per cent account, with a value of $23.8 billion, have been confirmed as having arrived in Iraq in total or in partial shipments.

IV. Matters relating to oil spare parts and equipment for Iraq

13. The Committee has, as in the previous phases, made continuous efforts to expedite the approval of applications for oil spare parts and equipment required for the oil sector. During the period of this report and until 31 October 2002, the Secretariat received two applications relating to the oil sector: one was approved by the Office of the Iraq Programme and one was still under review by the Office.

14. From the beginning of the process to 31 October 2002, the total allocation for oil spare parts and equipment amounted to $4.8 billion. The number of applications received by the Committee for oil spare parts and equipment to Iraq under previous resolutions has reached a total of 6,342, with a value of $4.77 billion. Of these, 158 worth $415 million were judged to be non-compliant or inactive, a total of 618 were declared null and void, or cancelled (no value), and 32 worth $113 million were under Office of the Iraq Programme review; 1,760 applications valued at $1.44 billion were notified by the Secretariat and 3,177 worth $2.07 billion have been approved by the Committee; 1 worth $1.7 million was denied approval, 137 worth $46 million had the status "goods review list notice" or "goods review list processing", 54 worth $168.8 million were returned holds, 375 worth $385.2 million were goods review list non-compliant or inactive, and 130 worth $132 million were under UNMOVIC/IAEA review. As at 31 October 2002, partial or complete deliveries of contracts for spare parts and equipment for the oil sector were made, up to a value of some $1.5 billion.

V. Other activities

15. During the reporting period, the Committee held eight formal meetings and nine informal consultations at the expert level to discuss various issues relating to the humanitarian situation in Iraq and the implementation of the oil-for-food programme. Much of the Committee's attention has been focused on issues concerning the oil-pricing mechanism, the significant downturn in Iraq's oil exports

and the consequent revenue shortfall for the effective implementation of the oil-for-food programme, and also on alleged violations which have a direct bearing on the programme.

16. The Committee heard a number of briefings and discussed extensively various issues relating to the oil-for-food programme during the course of its informal meetings. On 31 May 2002 the Committee received a briefing by the outgoing Deputy Humanitarian Coordinator in Iraq. From June to October, a number of informal meetings were held, with the participation of the oil overseers, regarding the retroactive pricing and excessive premiums. On 7 and 14 August 2002 the Committee was briefed by the Office of the Iraq Programme on the impact of the revenue shortfall and the implementation of the revised procedures established by resolution 1409 (2002). On 10 October 2002, a meeting was held, with briefings provided by the Office of the Iraq Programme and UNMOVIC on the implementation of resolution 1409 (2002). On 22 October 2002 another informal meeting was convened to discuss issues concerning the so-called "blue list" and some lists of written-off supplies and equipment which the Office of the Iraq Programme had suggested could be transferred either to the Government of Iraq or to the three northern governorates, some items on a loan basis.

17. At its 235th meeting, on 10 July 2002, the Committee considered requests from Belgium and Oman to import certain oil-derived products from Iraq, and requested the Office of the Iraq Programme to prepare a report on the necessary modalities for such imports before the Committee took a decision on the issue. On 2 October, the Office of the Iraq Programme informed the Committee that it had received a response from the State Oil Marketing Organization, through the Permanent Representative of Iraq, to the effect that Iraq "exported crude oil only and had no surplus of products for export", which represented "the official position of the Iraqi Government" on the issue.

18. Regarding a letter from Switzerland submitting additional information with regard to allegations that the Swiss company Glencore International AG had intended to divert Iraqi oil from its original destination for sale in Europe, the Committee decided at its 236th meeting, on 31 July 2002, to write another letter to Switzerland requesting additional documentation relating to the sale of the oil in Europe.

19. The 237th meeting, held at the ambassadorial level on 19 August 2002, was called at the urgent request of the Russian Federation to consider the situation caused by the serious drop in Iraqi oil exports. The oil overseers provided an update of the situation to the Committee, noting that oil exports during phase XII had so far been less than 1 million barrels per day compared to a sustainable level of 2.1 million barrels per day during the previous phase. Committee members had an extensive discussion on the issue without reaching common understanding on either the cause of the situation or how to address it.

20. At its 241st meeting, on 5 November 2002, the Committee heard a briefing by the Coordinator of the Multinational Interception Force (MIF) on its activities in the Gulf area, with emphasis on the curbing of oil smuggling. MIF reported a significant reduction in illegal oil exports from Iraq by sea over the past year as a result of vigorous and effective monitoring and interception by the Force, but indicated at the same time that oil smuggling was continuing, though on a decreasing scale, in the Gulf area. The Coordinator also expressed concern that the ferry service between

Iraq and the United Arab Emirates had been found to be carrying large amounts of illicit cargo to Iraq. The Committee welcomed the briefing and decided to consider further how to address the issues involved. Meanwhile, a member of the Committee indicated to the Committee that the United Arab Emirates was committed to the sanctions regime and had confirmed on many occasions that it stood ready, in this regard, to solve any problem brought to its attention by the Committee.

VI. Conclusions

21. As in previous phases, the Committee devoted great efforts to overcoming difficulties arising from the implementation of the arrangements in paragraphs 1, 2, 6, 8, 9 and 10 of resolution 986 (1995). Marked progress has been made in certain areas, yet much still remains to be done in some other areas. In the light of Security Council resolution 1409 (2002) in which the Council made extensive changes on the basis of the goods review list and the revised procedures for the current system, the Committee will continue to work closely with all the parties concerned to ensure the effective discharge of its responsibilities under relevant Security Council resolutions. As in the past, the Committee wishes to reiterate its appreciation to all the parties concerned for their cooperation and contributions.

Notes

[1] More information or clarification is required to complete the review. An application becomes inactive if the requested information or clarification is not received after 90 days.

[2] The supplier has been notified about item(s) on the list; response is pending.

[3] Experts have identified item(s) on the list.